

BEFORE THE FEDERAL ELECTION COMMISSION

2005 APR 14 A 8

In the Matter of

Apex Healthcare, Inc.  
James Chao

MUR 5405

**SENSITIVE**

GENERAL COUNSEL'S REPORT # 2

**I. ACTIONS RECOMMENDED:** Accept the attached proposed conciliation agreement with Apex Healthcare, Inc. and James Chao.

**II. BACKGROUND**

On February 8, 2005, the Commission found reason to believe that Apex Healthcare, Inc. ("APEX") violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"), and that James Chao, its president and sole shareholder, knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.<sup>1</sup> At the same time, the Commission authorized entering into pre-probable cause conciliation with both APEX and James Chao (collectively "Respondents").

The Commission based its findings on the complaint filed in this matter and an additional submission (the "Submission") made by Respondents after filing their response. These documents provided the foundation for the Commission's finding reason to believe that APEX and Chao used corporate funds to reimburse a total of \$75,500 in contributions in the names of

<sup>1</sup> On February 8, 2005, the Commission also: 1) found reason to believe that the conduit contributors violated 2 U.S.C. § 441f, but took no further action; 2) found no reason to believe that Daniel Hynes, Hynes for Senate and Jeffrey C. Wagner, in his official capacity as treasurer, violated 2 U.S.C. § 441f and took no action with respect to violations of 2 U.S.C. § 441b(a); 3) found reason to believe that Hynes for Senate and Jeffrey C. Wagner, in his official capacity as treasurer, violated 2 U.S.C. § 434(b) but took no further action; and 4) took no action against three political committees identified by Respondents as having received contributions in 2002 in violation of 2 U.S.C. §§ 441b(a) and 441f.

others in 2002 and 2003 and used corporate funds to make an in-kind contribution of \$1,500 to a federal candidate in 2003.

On February 25, 2005, this Office notified counsel for Respondents of the Commission's findings and its offer to engage in pre-probable cause conciliation. After reviewing the conciliation agreement approved by the Commission, counsel for Respondents met with this Office on March 16, 2005. After several follow-up conversations, this Office and the Respondents reached an agreement on proposed settlement terms.

**III. CONCILIATION AGREEMENT**

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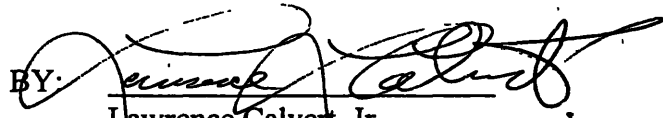
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IV. RECOMMENDATIONS


1. Accept the attached conciliation agreement with Apex Healthcare, Inc. and James Chao;
2. Approve the appropriate letters; and
3. Close the file.

Lawrence H. Norton  
General Counsel

4/13/05  
Date

BY:   
Lawrence Calvert, Jr.  
Deputy Associate General Counsel for Enforcement

  
Ann Marie Terzaken  
Assistant General Counsel

  
Adam J. Schwartz  
Attorney

Attachment

1. Apex Healthcare, Inc. and James Chao Proposed Conciliation Agreement